

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

MARCIA ANDABKER n/k/a MARCIA NOVEK
and JOSEPH P. NOVEK,

Plaintiffs,

-v-

5:04-CV-892

THE TOWN OF MANLIUS, NEW YORK;
THE TOWN OF MANLIUS CONSOLIDATED
DRAINAGE DISTRICT NO. 3; HENRY L. CHAPMAN,
in his capacity as Supervisor of the Town of Manlius;
ANDREW GETTY in his capacity as Codes
Enforcement Officer for the Town of Manlius and
Individually; VALDIMIR MARTINS in his capacity
as Assessor for the Town of Manlius and Individually;
CALOCERINOS & SPINA ENGINEERS, INC.;
M & I PROPERTIES, INC.; and JOHN DOE
(denominating the successor-in-interest, presently
unknown, to M & I Properties, Inc.),

Defendants.

APPEARANCES:

OF COUNSEL:

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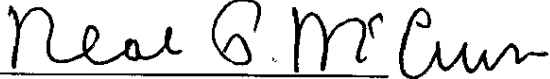
NEAL P. McCURN, Senior U.S. District Judge

ORDER

On June 3, 2005, the court granted the motions to dismiss by defendants, the Town of Manlius, New York; the Town of Manlius Consolidated Drainage District No. 3; Henry L. Chapman; Andrew Getty; and Valdir Martins. M & I Properties, Inc. and John Doe (denominating the successor-in-interest, presently unknown, to M & I Properties, Inc.) ("M & I") were also named as defendants in this action. According to the court's docket sheet, M & I was served on August 12, 2004, but it has never answered, moved or otherwise appeared in this action. Given the disposition of the moving defendants' motions, the interests of justice would not be served by keeping this case open as to M & I, which is in default. Therefore, the court *sua sponte* dismisses the complaint as to M & I. See Perrotta v. Irizarry, 430 F.Supp. 1274, 1280 (S.D.N.Y.), aff'd without pub'd opinion, 573 F.2d 1294 (2d Cir. 1977).

IT IS SO ORDERED.

DATED: June 14, 2005
Syracuse, NY



Neal P. McCurn
Senior U.S. District Judge